



## BURLINGTON ENVIRONMENTAL

January 21, 1992

Mr. Tom Eaton, Manager  
Solid and Hazardous Waste Program  
Washington Department of Ecology  
Mail Stop PV-11  
Olympia, Washington 98504-8711

Ed  
Dave C.

RECEIVED  
JAN 23 1992

RCRA PERMITS SECTION

WA 29173  
1/21/92  
FILE COPY

Re: Changes to RCRA Part B Permit Applications

Dear Mr. Eaton:

Your letter of December 24, 1991 was troubling, and we wonder if you had all the facts available before writing the letter. We are concerned because your letter appears to misrepresent the timing, nature and impact of RCRA Part B permit application revisions submitted last November for Burlington Environmental's Washougal and Pier 91 Facilities.

Revisions for the Washougal and Pier 91 Facility permit applications were submitted with advance verbal or written notice to Ecology's Hazardous Waste Permit staff. This notification occurred 11 weeks before submittal of Washougal Facility permit application revisions, and 4 weeks before submittal of revisions to the Pier 91 Facility permit application. After notification, your staff approved the submittal dates.

Ecology's planned schedules for issuing draft permits were a primary factor in determining when the revisions would be submitted. Beginning in July 1991, we refrained from submitting permit application revisions for the Washougal Facility specifically because the agency cautioned us that a draft permit would be issued soon. After repeated 2 to 4 week delays of this target date grew to be routine, we were told by Ecology's permit staff in September 1991 that revisions could be submitted during the draft permit public comment period, then incorporated into a final permit unless further public review was warranted.

The November revision submittal dates were selected to occur within the anticipated 45-day comment periods for both the Washougal and Pier 91 draft permits, based on agency staff advice and the agency's revised plans to issue draft permits in October 1991. As of this date, it has been 6 months since the agency first expected draft permits to be issued. The agency's delays continue to be routine, and the draft permits still have not been issued for public review.

Your impression that agency staff time has been wasted reviewing irrelevant material, and that facility design must be determined early on in the process, is not realistic. The need to revise the permit applications and review substantive new material is inevitable given the length of time that has transpired since submittal of the original permit applications in 1988. During that time, more permit application revisions have been prompted by the agency's ineffective use of the NOD process, changed or newly identified agency policies, changes in agency staff, and changing regulations than by unrelated business decisions.

In your reference to Burlington Environmental's comments at SWAC meetings, you state that you have improved the agency's ability to process permits by centralizing the permit functions and devoting more staff to permit processing. Since last fall, reliance on one staff person to address numerous outstanding issues for the Georgetown, Washougal and Pier 91 permit applications has seriously affected the agency's ability to respond effectively and meet permit issuance goals. This staff person is also responsible for completing sorely needed permit modification guidance at the same time.





In SWAC meetings, we have also raised concerns about the agency's permit modification process. The permit staff has told us on several occasions that the agency may not be able to process permit modification requests in a timely manner, and that work on the requests will probably be deferred until all final permit applications have been processed. In addition, we have been waiting since July 1991 for guidance from Ecology's headquarters and regional staff on critical permit modification issues not adequately addressed in existing regulations. We understand that this guidance may be issued in several months, but that does not respond to our need for solid answers now. Interim status construction plans at the facilities have already been affected because of delays in permit issuance, and the lack of permit modification guidance now threatens to affect our ability to respond to Part B compliance dates and construction schedules.

These factors have had a direct influence on our decision to make necessary layout or design changes prior to final permit issuance. We lack confidence in the agency's willingness and ability to process permit modifications, and feel the risks to us are too great when so much of the modification process is still unknown. Revising the permit applications prior to permit issuance avoids later delays at the mercy of a poorly defined permit modification process. It also allows the public to review draft permits consistent with the most current plans for use of the facilities. And, responding to strong preferences expressed by your permit staff, many of the revisions will allow us to complete Part B upgrades much sooner than shown in the construction schedules for outdated facility designs.

Our November revisions to the Washougal and Pier 91 permit applications sat in the permit staff offices for more than 3 weeks before review of the material began. Our repeated offers to meet with the permit staff to explain the limited nature of the revisions were not accepted. It is now over 8 weeks since the revisions were submitted, and 4 weeks since we were told the Washougal revisions would not be incorporated into the draft permit, yet the draft permits still have not been issued. We were also told 4 weeks ago that the Pier 91 revisions would be incorporated into that facility's draft permit, but your letter did not recognize this. Eight weeks is more than enough time to review and incorporate the necessary revisions into draft permits for both facilities. These circumstances result in damaging delays and ineffective use of everyone's time.

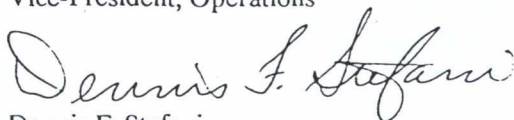
In our efforts to cooperate with the agency during the permit review process, we have endured many other frustrating events without substantial protest. We would appreciate an opportunity to discuss your letter and our response in person, to improve communication and emphasize our willingness to keep working on these issues together. We still maintain that it is appropriate for the draft permits to reflect current revised plans for facility layout and design, and that this can be accomplished without undue delay to your staff's planned schedule for draft permit issuance.

Thank you for your consideration of these facts. We are available to meet with you at your earliest convenience. We can be reached at (206) 223-0500.

Sincerely,



Michael P. Keller  
Vice-President, Operations



Dennis F. Stefani  
Vice-President, Regulatory Affairs

cc: Cindy Gilder, Ecology  
Carrie Sikorski, EPA